

CHAD ALLEN,

Plaintiff,

v.

MICHAEL J. ASTRUE,
Commissioner of Social Security

Defendant,

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Case No. 4:09CV1281 HEA

This matter is before the Court on the Report and Recommendation, of Magistrate Judge Thomas C. Mummert, III, that the decision of the Commissioner be reversed and remanded. Plaintiff has filed written objections to the Report and Recommendation. When a party objects to the magistrate judge's report and recommendation, the Court must conduct a *de novo* review of the portions of the report, findings, or recommendations to which the party objected. See *United States v. Lothridge*, 324 F.3d 599, 600 (8th Cir.2003) (citing 28 U.S.C. § 636(b)(1)). Pursuant to 28 U.S.C. § 636, the Court will therefore conduct such a *de novo* review.

Plaintiff has no objection to a reversal and remand pursuant to the Report and Recommendation, but only for the limited purpose of Plaintiff's eligibility for

benefits before a subsequent claim and award rendered by Defendant finding Plaintiff disabled as of March 11, 2009. The Court agrees with Plaintiff that before Plaintiff's current eligibility could be terminated, Defendant must follow the due process requirements of 20 C.F.R. §§ 416.994 and 416.995. Therefore, the scope of the remand shall be limited to consideration of Plaintiff's eligibility before the date covered by the subsequent award, *i.e.*, for the period from October 19, 2005 through March 10, 2009, and in accordance with Judge Mummert's findings and conclusions as stated in the Report and Recommendation. The Court also adopts the Report and Recommendation in its entirety.

Accordingly,

IT IS HEREBY ORDERED that the decision of the Commission is reversed and remanded for further clarification and explanation of Plaintiff's IQ scores and intellectual functioning level from October 19, 2005 through March 10, 2009.

A separate judgment in accordance with this Opinion, Memorandum and Order is entered this same date.

Dated this 7th day of July, 2010.



HENRY EDWARD AUTREY
UNITED STATES DISTRICT JUDGE